

**ENTERED**

June 06, 2018

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

JASON FASCHING,

Plaintiff,

VS.

KEON V AVANT, *et al*,

Defendants.

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CIVIL ACTION NO. 2:17-CV-248

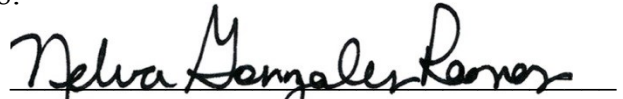
**ORDER**

Before the Court is “Defendants Colonial Freight Systems, Inc. and Keon V. Avant’s Motion for Summary Judgment” (D.E. 28). Pursuant to Local Rule 7.3, opposed motions will be submitted to the judge 21 days from filing. The Motion was filed on May 7, 2018 and its submission date was May 29, 2018. On May 20, 2018, Plaintiff filed a motion requesting extension of the discovery deadline and, impliedly, an extension of the date to respond to the summary judgment motion. D.E. 29. The Court denied the motion for extension of time. D.E. 32.

Plaintiff has not filed a timely response to the summary judgment motion. Pursuant to Local Rule 7.4, failure to respond is taken as a representation of no opposition to the relief sought. Defendants have further recited that Plaintiff has failed to participate meaningfully in discovery. This recitation was not controverted by any response or in Plaintiff’s motion for an extension of the discovery deadline. The Court finds that Plaintiff’s default further demonstrates a failure to prosecute his claims subject to the Motion.

Defendants seek a no-evidence summary judgment on Plaintiff's claims and a traditional summary judgment on their defense of contributory negligence. The Court, after reviewing the Motion on the merits, finds that it is well-taken with respect to the no-evidence summary judgment request on Plaintiff's claims. The Court need not and does not reach the request for summary judgment on its contributory negligence defense. For these reasons, the motion for summary judgment (D.E. 28) is GRANTED IN PART and DENIED IN PART and this action is DISMISSED with prejudice.

ORDERED this 6th day of June, 2018.

  
NELVA GONZALES RAMOS  
UNITED STATES DISTRICT JUDGE